



MINUTES

HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, JULY 11, 2006

HUNTINGTON BEACH CIVIC CENTER

2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

5:15 P.M. - ROOM B-8 (CITY HALL LOWER LEVEL)

CALL PLANNING COMMISSION MEETING TO ORDER

ROLL CALL: *P* *A* *P* *P* *P* *P* *P*
Burnett, Livengood, Scandura, Dingwall, Ray, Horgan, Dwyer
(Commissioner Livengood arrived at 5:25 pm)

AGENDA APPROVAL

A MOTION WAS MADE BY RAY SECONDED BY HORGAN TO APPROVE THE PLANNING COMMISSION STUDY SESSION AGENDA OF JULY 11, 2006, BY THE FOLLOWING VOTE:

AYES: Burnett, Scandura, Dingwall, Ray, Horgan, Dwyer
NOES: None
ABSENT: Livengood
ABSTAIN: None

MOTION APPROVED

A. PROJECT REVIEW (FUTURE AGENDA ITEMS):

A-1. GENERAL PLAN AMENDMENT NO. 04-04/ZONING MAP AMENDMENT NO. 04-01/CONDITIONAL USE PERMIT NO 04-32/TENTATIVE TRACT MAP NO. 16733 (NEWLAND STREET RESIDENTIAL – 21471 NEWLAND) – Jane James

Jane James, Senior Planner, gave an overview of the proposed project to be constructed on the former Cenco oil tank site covering 23.1 acres.

Discussion ensued regarding park improvements, parkland in-lieu fees and parkland dedication and deed restricted wetlands by Caltrans.

A-2. FLOOD MANAGEMENT PLAN: ANNUAL REVIEW – Ricky Ramos

Ricky Ramos, Associate Planner, gave an outline of the sixth annual review.

Todd Broussard, Principal Civil Engineer, directed the Commission to Attachment 1.4 of the staff report and explained where improvements would take place.

Discussion ensued regarding contracts, schedules and proposed improvements.

B. STUDY SESSION ITEMS - NONE

C. AGENDA REVIEW (UPDATE ON ALL AGENDA ITEMS):

Herb Fauland, Principal Planner, advised of late communications received for items B-1 and B-2, and directed the Commissioners to view a deciduous tree handout provided by Chair Dingwall.

Commissioner Scandura requested that Item B-2 be moved ahead of Item B-1.

D. PLANNING COMMISSION COMMITTEE REPORTS:

Commissioner Ray stated he would be attending the Newland Residential Subdivision Meeting on July 13, 2006.

E. PUBLIC COMMENTS (Regarding Study Session Portion of Meeting):

Rich Loy, resident, expressed his opposition to the proposed Newland Street Residential Project, which he felt, should consist solely of single-family residences and not town homes. He also stated his concern with the cost of new sewage uplift stations.

F. PLANNING COMMISSION COMMENTS:

Commissioner Horgan inquired as to the date and time of the Planning Commission Workshop. The workshop is scheduled for August 2, 2006.

6:20 P.M. – RECESS FOR DINNER

7:00 P.M. – COUNCIL CHAMBERS

CALL PLANNING COMMISSION MEETING TO ORDER

PLEDGE OF ALLEGIANCE – Led by Commissioner Dwyer

ROLL CALL: *P P P P P P P*
Burnett, Livengood, Scandura, Dingwall, Ray, Horgan, Dwyer

AGENDA APPROVAL

A MOTION WAS MADE BY SCANDURA, SECONDED BY DWYER, TO MOVE ITEM B-2 IN ADVANCE OF ITEM B-1 AND TO APPROVE THE PLANNING COMMISSION AGENDA OF JULY 11, 2006, BY THE FOLLOWING VOTE:

AYES: Burnett, Livengood, Scandura, Dingwall, Ray, Horgan, Dwyer
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

A. ORAL COMMUNICATIONS:

Angela Rainsberger, resident of the Main/Crest area, spoke in opposition of the proposed Main/Crest Conservation District overlay (ZTA# 06-04/ZMA #06-02) as more than 70% of area property owners have voiced their disapproval of the proposed project.

Joe Da Silva, resident of the Main/Crest area, spoke in opposition to the proposed overlay and stated that he was unaware of the 40% lot coverage requirement. He reiterated that 70% of property owners are against the proposed overlay.

Joe Wuerer, resident of the Main/Crest area, stated that he thought the zoning classifications in the proposed overlay were confusing and recommended abandoning the plan.

Kay Russell, resident of the Main/Crest area, advised that she had signed the original petition to implement an overlay without realizing that a 40% lot coverage restriction was proposed. She recommends a ballot vote for this project.

Richard Kaae, resident of Main/Crest area, stated that he signed the original petition for the overlay but was not informed of the lot coverage restriction. He recommends a ballot vote for this project.

Kathy Lynn, resident of Main/Crest area, spoke in opposition to the 40% lot coverage proposal and requests a ballot vote for the project.

Marcus Kimmener, resident of Main/Crest area, advised he felt the guidelines for the overlay were too stringent with regards to design review and CEQA. He recommended the overlay proposal be abandoned.

Suzanne Franco, resident of Main/Crest area, spoke in opposition to the proposed overlay and requests a formal review by the City Council.

Steve Stafford voiced his concerns regarding graffiti and skateboard damage being done to the Huntington Beach High School. He suggested more patrols and security in the area.

WITH NO ONE ELSE PRESENT TO SPEAK, THE PUBLIC HEARING IS NOW CLOSED

Chair Dingwall requested clarification regarding the Main/Crest overlay and what role the Planning Commission will play. He also requested additional information regarding the number of homes affected from staff.

B. PUBLIC HEARING ITEMS

PROCEDURE: Commission Disclosure Statement(s), Staff Report Presentation, Commission Questions, Public Hearing, Discussion/Action.

- B-1. MITIGATED NEGATIVE DECLARATION NO. 04-10/ CONDITIONAL USE PERMIT NO. 04-56 (HOME DEPOT):** **Applicant:** Scott Mommer Consulting
Request: **MND:** To analyze the potential environmental impacts associated with the implementation of the proposed project. **CUP:** To permit construction of a 130,536 square-foot home improvement store, including a 25,000 sq. ft. garden center, on-site landscaping, paving, 585 parking spaces and associated infrastructure and site improvements. The approximate maximum height of the proposed building is 44 feet, 6-inches. The proposal includes an enclosed loading dock and a customer pick-up canopy. Access to the site is proposed via three driveways along Magnolia Street and two driveways along Garfield Avenue, at locations generally consistent with the location of existing driveways. The existing K-Mart/Savers building will be demolished. **Location:** 19101 Magnolia St. (southwest of the Magnolia Street/ Garfield Avenue intersection). **Project Planner:** **Ron Santos**

STAFF RECOMMENDATION: Motion to: "Approve Negative Declaration No. 04-10/ Conditional Use Permit No. 04-56 with suggested findings, mitigation measures and conditions of approval."

The Commission made the following disclosures:

- Commissioner Dwyer visited the site on numerous occasions.
- Commissioner Scandura visited the site, spoke with Marice White, Kathy Klingenberg, Councilman Coerper and staff.
- Chair Dingwall stated he visited the site, met with Marice White and staff.
- Commissioner Horgan spoke with residents and Marice White, visited the site many times.
- Commissioner Ray visited the site, attended neighborhood meeting and spoke with Marice White.
- Commissioner Livengood advised he had visited the site, had a phone conversation with Marice White, attended the neighborhood meeting and spoke with Design Review Board members and staff.
- Commissioner Burnett visited the site, attended neighborhood meeting and spoke with Marice White.

Ron Santos, Associate Planner, gave a Powerpoint presentation and an overview of the proposed project. He reviewed the MND and issues of concern such as geology, traffic impacts and noise. He stated five late communications had been received and distributed.

Chair Dingwall asked if the Conditions of Approval were up to date. Santos advised that they were.

Horgan questioned the traffic impact fee, how it is calculated and who receives the revenue. Bob Stachelski, Transportation Manager for the Public Works Department, informed the Commissioners that the fee is based on the number of vehicle trips generated by a project. He stated that the money goes to the Traffic Impact Fund to fund roadway improvements throughout the city.

Horgan recommended combining the driveways to the project and nearby shopping center and installing a traffic light.

Burnett asked about the proposed eight foot wall to be installed behind resident's homes that back up to the project. Santos stated that the wall would be built entirely on the applicant's property and would not interfere with the property owner's landscaping.

Livengood questioned the cost to the applicant regarding the under grounding of electrical cables in the area. Stachelski advised the fee is approximately \$60,000.00 before January 2007 and \$85,000 thereafter.

Dingwall voiced concern for the applicant's cost related to the off-site improvements. Mulvihill explained that these improvements are exclusive to the site and are being installed in cooperation with the City of Fountain Valley.

THE PUBLIC HEARING WAS OPENED

Marice White, Representative for Home Depot, gave a Powerpoint presentation covering the original proposal and the revised proposal that complies with all of the conditions of approval recommended in the staff report. This involved reducing the size of the building an overall 6,000 square feet; eliminating parking/access to the rear of the building by installing gates, relocating the loading dock, consolidating the driveways on Magnolia, locating the lumbar delivery to the front of the store, installing an eight foot sound barrier wall and 28 feet of landscape buffer to the rear of the building. Site traffic circulation was also discussed which involved truck entry and unloading.

Steve Stafford, resident, spoke regarding mitigation measures for other street corners in the area that may be affected by day laborers.

Antony Gaynair, resident, stated he was impressed with Home Depot's revised plan to mitigate potential impacts and suggested a crossing guard be provided during school hours; the front lumbar delivery area be enclosed; and a six month review of the project by the Planning Commission.

Barbara Brown, resident, advised that she was very impressed with Home Depot's revised plan to mitigate impacts and the concern they have shown for the neighbors. She suggested that her existing back wall be doubled up with the new proposed wall. Ms. Brown thanked staff and Ron Santos for their assistance to the residents and recommended approval of the item.

Mary Gillespie, resident, voiced her approval of the newly proposed plan, however, she is still concerned about excessive traffic and suggested a traffic signal be installed on Lindsey Way.

Eric Brenn, property manager of the adjacent shopping center, recommended approval of the project and applauded the Planning Commission for their efforts.

Frigga Brenn, property manager of the adjacent shopping center, recommended approval and applauded Home Depot for their mitigation efforts.

Hans Brenn, property manager of the adjacent shopping center, stated he approved of the project but had concerns regarding dust and noise in the area while the demolition of the old Kmart building takes place.

Kathy Klingenberg, resident, stated that she is excited about the positive changes to the original site plan and thanked Ron Santos and the Planning Department Staff for all their hard work. She said that it has been a long process, which involved meeting with the Planning Commissioners, Planning Staff, the Police Department and Marice White. She asked that the Commissioners take into consideration that there will be several months of demolition and after the store opening an increase in noise, pollution and day laborers to the neighborhood. She requested that the delivery hours be more in line with other big box stores in the area and deliveries to the garden center not begin before 8:00 a.m. Other issues included using quiet forklifts, a traffic signal be installed at Magnolia/Hyde Park or Magnolia/store entrance, a crossing guard during school hours, and a 180-day review of the U-turn at Lindsey Drive. She also requested a 180-day review of the lumbar night delivery hours. She reiterated that the focus of the project should include the best interest of the neighbors as well as the city.

Brett Klingenberg, resident, congratulated and thanked the Planning Commission and staff regarding the suggested mitigation measures. He stated that the installation of an eight-foot block wall next to a preexisting wall is unsafe.

Ana Baum, resident, thanked the Klingenbergs for their efforts and also suggested a six-month review by the Planning Commission.

WITH NO ONE ELSE PRESENT TO SPEAK, THE PUBLIC HEARING WAS CLOSED.

Discussion of safety issues regarding the applicant's installation of an eight-foot block wall and demolition impacts ensued.

Santos stated that the conditions referred to in attachment 6.55 of the staff report would have to be adhered to during demolition.

Scandura suggested mitigation measures to include signs being posted to prevent truck idling, low noise forklift units, adjusted trash compactor hours, decorative fencing, and a crossing guard.

Stachelski advised that a crossing guard would not be a mitigation measure provided by the applicant, but is considered to be a City issue.

Horgan questioned the proposed lumbar delivery hours and the probability of changing them to be more neighbor friendly.

Discussion ensued between the Commissioners and staff regarding the lumbar delivery hours and installation of a traffic light.

A MOTION WAS MADE BY COMMISSIONER RAY, SECONDED BY COMMISSIONER BURNETT TO CONDUCT STRAW VOTES REGARDING SUGGESTED CONDITIONS OF APPROVAL FOR MITIGATED NEGATIVE DECLARATION NO. 04-10 AND CONDITIONAL USE PERMIT NO. 04-56, THE VOTE AS FOLLOWS:

AYES:	Ray, Horgan
NOES:	Burnett, Livengood, Scandura, Dingwall, Dwyer
ABSENT:	None
ABSTAIN:	None

MOTION FAILED

Discussion continued between the Commissioners and staff regarding the Conditions of Approval.

Stachelski stated that a new traffic light could possibly be warranted, however, he could not guarantee its requirement or installation.

A MOTION WAS MADE BY LIVENGOD, SECONDED BY HORGAN TO APPROVE MITIGATED NEGATIVE DECLARATION NO. 04-10 AND CONDITIONAL USE PERMIT NO. 04-56 WITH REVISED FINDINGS AND CONDITIONS OF APPROVAL, BY THE FOLLOWING VOTE:

AYES:	Burnett, Livengood, Scandura, Dingwall, Ray, Horgan, Dwyer
NOES:	None
ABSENT:	None
ABSTAIN:	None

MOTION PASSED

FINDINGS OF APPROVAL

**MITIGATED NEGATIVE DECLARATION NO. 04-10/
CONDITIONAL USE PERMIT NO. 04-56**

FINDINGS FOR APPROVAL - MITIGATED NEGATIVE DECLARATION NO. 04-10

1. Mitigated Negative Declaration No. 04-10 has been prepared in compliance with Article 6 of the California Environmental Quality Act (CEQA) Guidelines. It was advertised and available for a public comment period of thirty (30) days. Comments received during the comment period were considered by the Planning Commission prior to action on the Mitigated Negative Declaration and Conditional Use Permit No. 04-56.
2. Mitigation measures, incorporated into the attached conditions of approval, avoid or reduce the project's effects to a point where clearly no significant effect on the environment will occur.
3. There is no substantial evidence in light of the whole record before the Planning Commission that the project, with incorporation of mitigation measures, will have a significant effect on the environment.

FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 04-56:

1. Conditional Use Permit No. 04-56 to permit construction of a 99,000 square-foot home improvement store (Home Depot), an attached 25,000 sq. ft. garden center, 550 parking spaces, paving, landscaping, and other associated infrastructure and site improvements will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The proposed project's potential to negatively impact the surrounding neighborhood was analyzed in conjunction with Mitigated Negative Declaration No. 04-10, which concluded that no significant impacts will result with incorporation of appropriate mitigation. MND No. 04-10 considered a noise analysis, traffic generation analysis, geotechnical reports, conceptual water quality management plan, storm water pollution prevention plan, the

project design and architecture, pedestrian and vehicular access, circulation and safety, surrounding land uses, and the City of Huntington Beach Urban Design Guidelines.

2. The conditional use permit will be compatible with surrounding uses because the project, which prohibits truck traffic and parking behind the proposed building and locates the loading dock away from the adjacent residential properties, will provide an adequate buffer to prevent adverse impacts. In addition, the project features quality architecture and provides adequate parking to accommodate the anticipated number of customers and employees. The project will displace a vacant building constructed in 1970, and substandard paving and landscaping conditions with a contemporary building, landscaped setback along the street frontages, and parking lot landscape planters and trees.
3. The proposed Home Depot project, as modified by conditions of approval, will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance, including minimum building setbacks, parking and landscape requirements and maximum building height and floor area ratio. No variance(s) to applicable development standards is requested or required.
4. The granting of the conditional use permit will not adversely affect the General Plan. It is consistent with the Land Use Element designation of CG-F1 (Commercial General – 0.35 maximum floor area ratio) on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:

A. Land Use Element

Goal LU 1: Achieve development that maintains or improves the City's fiscal viability and reflects economic demands while maintaining and improving the quality of life for the current and future residents of Huntington Beach.

Goal LU 4: Achieve and maintain high quality architecture, landscape, and public open spaces in the City.

Policy LU 7.1.6: Accommodate the development of additional jobs-generating land uses that improve the 1992 jobs-to-housing ratio of 0.82 to 1.0 or greater; to meet objectives of the Regional Comprehensive Plan (Southern California Association of Governments) and Air Quality Management Plan. These should capitalize upon existing industrial strengths emphasizing the clustering of similar or complementary industries.

Objective LU 10.1: Provide for the continuation of existing and the development of a diversity of retail and service commercial uses that are oriented to the needs of local residences, serve the surrounding region, serve visitors to the City, and capitalize on Huntington Beach's recreational resources.

Policy LU 10.1.4: Require that commercial buildings and sites be designed to achieve a high level of architectural and site layout quality.

Policy LU 10.1.5: Require that buildings, parking, and vehicular access be sited and designed to prevent adverse impacts on adjacent residential neighborhoods.

Policy LU 10.1.6: Require that commercial projects abutting residential properties adequately protect the residential use from the excessive or incompatible impacts of noise, light, vehicular traffic, visual character and operational hazards. The proposed project will generate significant tax revenues for the City and thereby improve the City's fiscal viability. The applicant's decision to establish the proposed home improvement store reflects current market demands. In addition, the availability of products and services offered by the store, as well as the replacement of a vacant, obsolete building and other non-conforming/ substandard site improvements with a modern, code

compliant development, will improve the quality of life for the residents of Huntington Beach. The proposed project will generate job opportunities for local residents and thereby improve the jobs-housing balance in the City. The project is designed consistent with the City's Urban Design Guidelines and features high quality architecture. Conditions of approval recommended by Staff and the DRB provide for an adequate buffer to the adjacent residential neighborhood to prevent adverse impacts.

B. Economic Development Element

Goal ED 1: Provide economic opportunities for present and future Huntington Beach residents and businesses through employment and local fiscal stability.

Goal ED 2: Aggressively retain and enhance the existing commercial, industrial, and visitor-serving uses while attracting new uses to Huntington Beach

Objective ED 2.4: Revitalize, renovate and expand the existing Huntington Beach commercial facilities while attracting new commercial uses.

Policy ED 2.4.1: Encourage and assist existing and potential commercial owners to modernize and expand their commercial properties.

Policy ED 2.4.2: Seek to capture the "new growth" businesses, such as but not limited to, (a) telecommuting; (b) "shop for value" or "big box" stores; (c) entertainment-commercial developments; (d) knowledge-based retail and entertainment information retail uses; and (e) high sales tax producing businesses.

The proposed project provides for the renovation and expansion of an existing commercial property. The proposed use will generate employment opportunities and assist the City in maintaining fiscal stability by increasing both property and sales tax revenues.

C. Urban Design Element

Policy - UD 1.4.1: Facilitate the use of public art in the design of public and private development.

The applicant is proposing a single public art element which has been reviewed and recommended for approval by the Design Review Board. In addition, a second public art element, subject to DRB review and approval, will be installed pursuant to conditions of approval.

D. Circulation Element

Goal CE 2: Provide a circulation system which supports existing, approved, and planned land uses throughout the City while maintaining a desired level of service on all streets and at all intersections.

Policy CE 2.1.1: Maintain a city-wide level of service (LOS) not to exceed LOS "D" for intersections during the peak hours.

Policy CE 2.1.2: Maintain a city-wide level of service (LOS) not to exceed LOS "C" for daily traffic, with the exception of Pacific Coast Highway south of Brookhurst Street.

Goal CE 4: Encourage and develop a transportation demand management (TDM) system to assist in mitigating traffic impacts and in maintaining a desired level of service on the circulation system.

Goal CE 5: Provide sufficient, well-designed, and convenient on- and off-street parking facilities throughout the City.

A traffic impact analysis has been completed by a traffic engineering firm and reviewed by the Public Works Department to ensure a balanced transportation system that adequately mitigates the project's potential traffic impacts, while still allowing for commercial development, to be achieved. The developer will be required to contribute a fair-share payment toward traffic system improvements to mitigate the project's proportionate impacts to the City's transportation infrastructure. Huntington Beach Zoning & Subdivision Ordinance provisions require the applicant to encourage alternative modes of transportation through implementation of a Transportation Demand Management Plan. Preferentially located carpool parking spaces are required, along with other amenities and incentives, such as employee lockers and showers, carpool information programs and bike racks included in the overall design of the home improvement store, in order to reduce vehicular trips to the site. The well-designed parking facilities will provide, pursuant to code requirements, access between both adjacent commercial parcels without reentering the public street system, substantial parking lot landscaping and perimeter landscaping to enhance the view of the parking area from surrounding properties and the public right-of-way.

CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 04-56:

1. The conceptual site plan received and dated July 3, 2006, and conceptual floor plans and elevations received and dated September 9, 2005 and the colored elevations and materials board reviewed by the Design Review Board on November 21, 2005 and maintained in case file DRB No. 00-24 as "DRB Exhibit A", shall be the conceptually approved design with the following modifications:
 - a. Landscaping within the planter along the westerly property line shall be limited to ground cover, low-growing shrubs and 24-inch or 36-inch box broadleaf evergreen trees spaced (approximately) 20-feet on center.
 - b. Parking lot trees shall be broadleaf evergreen trees where feasible and approved by the Department of Public Works Landscape Architect.
 - c. The drive aisle behind (on the west side of) the building shall be gated and designed for emergency access only and in accordance with Fire Department requirements. Gates shall be installed at the northerly and southerly end of the drive aisle, parallel to and in alignment with the northerly and southerly building walls. Fixed-fencing shall extend between the gates and the westerly property line. Gates and fencing shall be consistent with the design and materials used at the garden center (black ornamental fence and security mesh). The emergency access drive aisle shall be paved with turf-block or other similar material as approved by the Departments of Fire and Planning.
 - d. The enclosed loading dock shall be located near the southeast corner of the building at a minimum separation of 100 feet from the westerly property line and shall provide orientation of the loading door to the east.
 - e. The width of all substandard portions of the landscaped setback proposed along the Garfield Avenue street frontage shall be increased as necessary to the code required 10-foot minimum (exclusive of curbs and parking stall overhang) along the entire street frontage, except at approved driveways. The increased planter width shall be provided without reduction or exception to any other code requirement and/or development standard, including but not limited to minimum dimensions for parking stalls, drive aisles and interior parking lot landscape planters.
 - f. A full-height solid wall shall enclose the garden center along its westerly side. Said wall shall incorporate decorative treatments consistent with the facades of the main

- building. The garden center loading pad shall be located a minimum of 100 feet from the westerly property line.
- g. A reciprocal access driveway shall be constructed between the subject property and the property to the northeast. The precise design and location shall be subject to review and approval by the Departments of Planning and Public Works. **(Code Requirement)**
 - h. Driveways along Magnolia Street may be consolidated subject to review and approval by the Departments of Planning and Public Works.
 - i. The plans shall include a depiction and construction details for the public art element approved by the Design Review Board on November 17, 2005 and maintained by the Planning Department as "Public Art Exhibit A". In addition, a second public art element shall be provided on site. Public Art shall be innovative, original, and of artistic excellence; appropriate to the design of the project; and reflective of the community's cultural identity (ecology, history, or society) and approved by the Design Review Board. **(DRB)**
 - j. A darker color shall be used for the horizontal bands at the tops of the columns at the primary entrance and the pick-up canopy, in lieu of the color "sisal". The height of the bands shall be increased. **(DRB)**
 - k. The downspouts proposed at the rear of the building shall be concealed or designed as a decorative architectural feature. **(DRB)**
 - l. The lattice work proposed under the primary freestanding sign shall be eliminated. **(DRB)**
 - m. The cart corrals shall be constructed of durable and decorative material(s), designed for compatibility with the building (including color(s)), or shall be limited to curbing. The final design of the cart corrals shall be depicted in detail on the final working drawing sets.
 - n. The applicant shall work with the Departments of Building & Safety, Planning and Public Works, and Southern California Edison to determine the feasibility of relocating the electrical transformer farther away from the westerly property line.
 - o. Thirty parking spaces located south of the loading dock along the southerly property line shall be designated for employee parking and carpool parking pursuant to the requirements of the HBZSO Section 230.36 – *Transportation Demand Management*.
2. Prior to issuance of demolition permits, the following shall be completed:
- a. The eight-foot tall wall required as a mitigation measure along the westerly property line shall be constructed. The wall shall be designed in accordance with the City of Huntington Beach Urban Design Guidelines for walls/fences. The applicant shall be responsible for removing and replacing in its entirety all existing walls/fences located along the project site's westerly property line, provided however that the consent of the corresponding residential property owner shall be required and obtained prior to the removal of any fence or wall not located on the project site.
 - b. The applicant shall submit a plan for recycling of building materials and other construction debris for review and approval by the Planning Department. **(Environmental Board)**
3. Prior to submittal for building permits, the following shall be completed:

- a. The applicant shall submit a copy of the revised site plan, floor plans and elevations pursuant to Condition No. 1 for review and approval and inclusion in the entitlement file to the Planning Department.
 - b. The applicant shall submit receipts or other evidence that demolition building materials and other construction debris were recycled in accordance with the approved recycling plan.
4. Prior to issuance of building permits, the following shall be completed:
- a. The subject property shall enter into irrevocable reciprocal driveway easement(s), between the subject site and adjacent southerly and northerly properties. The location and width of the accessways shall be reviewed and approved by the Departments of Planning and Public Works. The subject property owner shall be responsible for making necessary improvements to implement the reciprocal driveway. The legal instrument shall be submitted to the Planning Department a minimum of 30 days prior to building permit issuance. The document shall be approved by the Planning Department and the City Attorney as to form and content and, when approved, shall be recorded in the Office of the County Recorder prior to final building permit approval. A copy of the recorded document shall be filed with the Planning Department for inclusion in the entitlement file prior to final building permit approval. The recorded agreement shall remain in effect in perpetuity, except as modified or rescinded pursuant to the expressed written approval of the City of Huntington Beach.
5. The structure(s) cannot be occupied, the final building permit(s) cannot be approved, and utilities cannot be released for commencement of use and issuance of a Certificate of Occupancy until:
- a. Compliance with all conditions of approval specified herein are accomplished and verified by the Planning Department.
 - b. Signs in English and Spanish shall be posted and maintained in the parking lot at all times, in accordance with the provisions of Huntington Beach Municipal Code Section 9.88.040 – *Solicitation Prohibited in Nonresidential Parking Areas*. A plan showing the design and location of signs shall be submitted for review and approval by the Departments of Police and Planning. **(PD)**
 - c. The applicant shall prepare a plan in consultation with the Departments of Economic Development and Police, which includes provisions for disseminating information regarding the City of Huntington Beach Luis Ochoa Job Center to store customers, contractors, and day laborers. In addition, the plan shall include methods to be implemented by the store to discourage the hiring of day laborers on or in the vicinity of the project site. The plan shall be reviewed and approved prior to issuance of a certificate of occupancy. **(PD)**
 - d. A sign(s) prohibiting truck idling, identifying the permitted hours for loading and delivery, and providing store contact information shall be placed in a conspicuous location adjacent to the loading dock. The sign shall be sized appropriately so that it can be clearly viewed by truck drivers entering the loading dock area. The sign(s), text, and location shall be reviewed and approved by the Planning Department prior to installation.
 - e. A decorative fence shall be installed along the south property line, between the loading dock and the adjacent commercial property. The design of the fence shall be subject to review and approval by the Planning Department.
 - f. A traffic signal shall be installed at the project site's main entry driveway along Magnolia Street, and shall include a pedestrian activated crossing indicator and marked cross

walk. The signal shall be coordinated with the signal at the intersection of Magnolia Street and Garfield Avenue to ensure proper traffic flow to the satisfaction of the Department of Public Works.

6. The use shall comply with the following:

- a. Deliveries and outdoor storage of any kind shall be prohibited behind (west of) the building, and shall be limited to the designated loading/unloading bays and pads, and lumber unloading at the pick-up canopy along the front of the store.
- b. Loudspeakers and/or other amplified devices within the garden center shall be prohibited.
- c. All doors along the westerly facade of the building shall remain closed at all times.
- d. Loitering by patrons or employees within the outdoor area to the rear (west) of the building shall be prohibited. Signs shall be posted to indicate no loitering in all areas located behind the building. Store managers shall be responsible for regulating all activity occurring at the rear of the building at all times.
- e. A store liaison shall be permanently established and available to assist neighbors and residents with issues regarding the site during construction and after completion of the project when the development is open for business. A sign identifying the store contact and telephone number shall be permanently posted on-site at locations approved by the Planning Department.
- f. Customer store hours shall be limited to 6:00 a.m. to 9:00 p.m. Monday through Saturday, and 8:00 a.m. to 8:00 p.m. on Sunday.
- g. Delivery hours (excluding lumber) shall be limited to 7:00 a.m. to 9:00 p.m. Monday through Friday, 8:00 a.m. to 6:00 p.m. Saturday, and 10:00 a.m. to 6:00 p.m. Sunday.
- h. Lumber deliveries shall occur at the customer pick-up canopy at the front of the store after customer hours.
- i. Delivery trucks shall not leave engines idling while delivering merchandise to the store. Truck engines shall be turned off in the loading dock.
- j. The trash compactor shall not operate before 8:00 a.m. or after 7:00 p.m. (seven days a week).
- k. Forklifts shall have pneumatic tires and no back-up beeper. In compliance with California Law, a store employee shall be present when a forklift backs up to ensure the safety of customers and employees.
- l. Stocking, re-merchandising and other activities shall be limited to approved customer store hours in all outdoor areas including the garden center, with the exception of delivery and associated unloading activities occurring at the front of the store.
- m. Parking lot lights shall be automatically dimmed to minimal security level lighting one hour after closing and shall be maintained at minimum security level at all times behind (west of) the building.
- n. All Home Depot store managers shall be required to review Conditional Use Permit No. 04-56 Conditions of Approval and the Code Requirements Letter (dated January 30, 2006) and provide a signature acknowledging that they have been read and understand said conditions.
- o. In the event that on-site drainage detention is required pursuant to the hydrology and hydraulics study approved by the Department of Public Works, the applicant shall

provide for bi-annual inspections of the detention system by an independent third party contractor that is bonded and approved by the Department of Public Works.

7. The project shall comply with all mitigation measures adopted in conjunction with Mitigated Negative Declaration No. 04-10 (Attachment No. 4).

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

MITIGATION MEASURES - CONDITIONAL USE PERMIT NO. 04-56:

Geology and Soils

1. New foundations should be supported on at least 2 ft. of engineered fill to reduce the anticipated static settlements to one in. total and ½ in. in 50 ft. differential.
2. The proposed structure shall be designed to tolerate the combined total and differential settlements presented in the Twinning Laboratories report (Nov. 2004) by ground modification in accordance with the recommendations of a licensed soils engineer and the requirements of the Department of Building & Safety.
3. The final design recommendations of the geological/seismic analysis approved by the City shall be implemented.

Transportation/ Traffic

1. Medians or other driveway design features approved by the Department of Public Works shall be constructed to restrict left- turns at driveways along Magnolia St. The potential locations for the medians or other driveway design features restricting left turns are at the northernmost driveway on Magnolia St., between the former Blockbuster site and the existing Taco Bell, adjacent to the northbound left turn pocket approaching the intersection; and at the southernmost driveway on Magnolia St., adjacent to the southbound left turn pocket approaching Hyde Park Dr., and possibly extending to the northerly edge of the driveway. This mitigation measure is applicable to the proposed access plan and the alternative access plan.
2. In the event that the site plan is amended to provide for a combined/shared access driveway serving the subject property and the commercial property to the south, a traffic signal shall be installed at the intersection of Magnolia St. and Hyde Park Dr. This mitigation measure shall apply in combination with Transportation/Traffic mitigation measure #1.

Noise

1. At the property line along the west side of the project site, either;
 - a. the existing 6-ft. tall property line noise wall shall be increased in height from 6 ft. to 8 ft.; or
 - b. a new 8 ft. tall wall shall be constructed in front of the existing 6-ft. wall; or

- c. the existing 6-ft. noise wall shall be removed and a new 8 ft. tall wall shall be constructed along the property line.
2. The rooftop parapet shall be of sufficient height to block line of site between rooftop HVAC equipment and the residences located immediately west of the project site.
3. Any garden center P/A system shall be designed and tested so as to not exceed the City of Huntington Beach noise standards at any location within the adjacent properties.
4. All truck movements and unloading in areas on the west and south side of the store, including the loading dock, shall be limited to 7:00 a.m. to 10:00 p.m.
5. Activities at the will-call area and building materials storage areas shall be limited to 7:00 a.m. to 10:00 p.m.

B-2. CONDITIONAL USE PERMIT NO. 06-14 (TATTOO SHOP): **Applicant:** Thomas Clark
Request: To permit the establishment of a small tattoo shop (130 square feet) as an ancillary use to an existing 935 square retail clothing store. **Location:** 6488 Edinger Ave. (southwest corner of Edwards St. and Edinger Ave.). **Project Planner:**
Paul Da Veiga

STAFF RECOMMENDATION: Motion to: "Approve Conditional Use Permit No. 06-14 with suggested findings and conditions of approval."

The Commission made the following disclosures:

- Commissioner Dwyer drove by the site.
- Commissioner Scandura visited the site.
- Chair Dingwall stated he has visited the site.
- Commissioner Horgan did not visit the site.
- Commissioner Ray visited the site.
- Commissioner Livengood visited the site.
- Commissioner Burnett visited the outside of the property.

Herb Fauland, Principal Planner, gave an overview of the project and the Conditional Use Permit. He stated that staff had reviewed the compatibility of the proposed project with the area.

Commissioner Ray questioned the hours of operation, the hand sink and the patron waiting area location. Fauland explained there would not be any restrictions on the proposed hours and the waiting area would be separated. The hand or janitorial sink is a condition under the certificate of occupancy and would be complied with.

THE PUBLIC HEARING WAS OPENED

Deborah Kaiser, Applicant, advised that her store currently closes at 6:30 p.m. but the hours would be changing to accommodate the artists. She stated that her intent is to have a respectable and positive establishment that would reflect the culture of Huntington Beach.

Shawn Scott, Tattoo Artist, spoke favorably on behalf of the applicant and requested approval.

Joe Kowalski, Tattoo Artist, stated that he does understand the concerns of the community and assured the Commissioners that they have every intention of honoring the conditions set forth in the Conditional Use Permit.

Don Luebcke, resident, voiced his concern regarding the outside of the building, which backs up to his home, becoming a waiting and smoking area. He asked that the applicant be watchful of this.

WITH NO ONE ELSE PRESENT TO SPEAK, THE PUBLIC HEARING WAS CLOSED

Discussion ensued regarding the location of Mr. Luebcke's home, the possibility of future disruptions to his peace and the posting of no smoking signs.

The applicant assured Mr. Luebcke that she would be vigilant with regards to his concerns.

Leonie Mulvihill, Deputy City Attorney, advised against making the no smoking signs a condition of approval.

**A MOTION WAS MADE BY LIVENGGOOD, SECONDED BY HORGAN TO APPROVE
CONDITIONAL USE PERMIT NO. 2006-014 WITH REVISED FINDINGS AND
CONDITIONS OF APPROVAL, BY THE FOLLOWING VOTE:**

AYES:	Burnett, Livengood, Scandura, Dingwall, Ray, Horgan, Dwyer
NOES:	None
ABSENT:	None
ABSTAIN:	None

MOTION APPROVED

FINDINGS AND CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT NO. 06-14

FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Planning Commission finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15305 of the CEQA Guidelines, which states that minor alterations in land use limitations that do not result in any changes in land use or density are Categorically Exempt.

FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 06-14:

1. Conditional Use Permit No. 06-14 to permit the establishment of a small tattoo shop (130 square feet) as an ancillary use to an existing 935 square foot retail clothing store, will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood because the existing shopping center contains similar and complimentary uses to the proposed tattoo shop. In addition, based upon the conditions imposed, the tattoo establishment will comply with Huntington Beach Municipal Code Chapter 8.70, which establishes criteria, standards, and regulations to ensure safe and sterile tattoo operations for the health of both clients and operators of the tattoo business.
2. The conditional use permit will be compatible with surrounding land uses because the tattoo business is not anticipated to create undue noise and adequate on-site parking is provided

3. The proposed tattoo establishment will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance. In addition, the business will comply with all standards and regulations of any State, County, and local laws, in particular, Huntington Beach Municipal Code Chapter 8.70, *Tattooing Establishment and Operation Regulations*, and any applicable standards of County of Orange Health Care Agency, Environmental Health.
4. The granting of the conditional use permit will not adversely affect the General Plan. It is consistent with the Land Use Element designation of General Commercial on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:

A. Land Use Element

Objective 10.1: Provide for the continuation of existing and the development of a diversity of retail and service commercial uses that are oriented to the needs of local residents, serve the surrounding region, serve visitors to the City, and capitalize on Huntington Beach's recreational resources.

Policy 10.1.11: Promote the introduction of a diversity of uses in commercial centers, particularly those containing anchor grocery stores that improve their relationship with surrounding residential neighborhoods and increasing their viability as places of community activity.

B. Economic Development Element

Policy 2.4.3: Encourage the expansion of the range of goods and services provided in Huntington Beach to accommodate the needs of all residents in Huntington Beach and the market area.

The proposed tattoo shop meets all applicable zoning codes and development standards and improves the long-term viability of the property by expanding the current tenant base in the center. The proposed use introduces a unique service to residents in the surrounding area and visitors to Huntington Beach.

CONDITIONS OF APPROVAL – CONDITIONAL USE PERMIT NO. 06-14:

1. The site plan, floor plans, and elevations received and April 7, 2006 shall be the conceptually approved layout.
2. The business shall comply with all standards and regulations of any State, County, and local laws, in particular, Huntington Beach Municipal Code Chapter 8.70, *Tattooing Establishment and Operation Regulations*, and any applicable standards of County of Orange Health Care Agency, Environmental Health.

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul

any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

C-1. PLANNING COMMISSION MINUTES DATED NOVEMBER 8, 2005

RECOMMENDED ACTION: Motion to: "Approve the November 8, 2005, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY RAY, TO APPROVE THE NOVEMBER 8, 2005, PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

AYES: Livengood, Scandura, Dingwall, Ray, Horgan, Dwyer
NOES: None
ABSENT: None
ABSTAIN: Burnett

MOTION PASSED

C-2. PLANNING COMMISSION MINUTES DATED DECEMBER 13, 2005

RECOMMENDED ACTION: Motion to: "Approve the December 13, 2005, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY HORGAN, TO APPROVE THE DECEMBER 13, 2005, PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

AYES: Burnett, Livengood, Scandura, Dingwall, Ray, Horgan,
NOES: None
ABSENT: None
ABSTAIN: Dwyer

MOTION PASSED

C-3. PLANNING COMMISSION MINUTES DATED MAY 23, 2006

RECOMMENDED ACTION: Motion to: "Approve the May 23, 2006, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY DWYER, TO APPROVE THE MAY 23, 2006, PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

AYES: Burnett, Livengood, Scandura, Dingwall, Ray, Horgan, Dwyer
NOES: None
ABSENT: None
ABSTAIN: None

MOTION PASSED

D. NON-PUBLIC HEARING ITEMS – NONE

E. PLANNING ITEMS

E-1. CITY COUNCIL ACTIONS FROM PREVIOUS MEETING

Herb Fauland, Principal Planner – reported on the items from the previous City Council meeting.

E-2. CITY COUNCIL ITEMS FOR NEXT MEETING

Herb Fauland, Principal Planner – reported on the items scheduled for the next City Council meeting.

E-3. PLANNING COMMISSION ITEMS FOR NEXT MEETING

Herb Fauland, Principal Planner – reported on the items scheduled for the next Planning Commission meeting.

F. PLANNING COMMISSION ITEMS

F-1. PLANNING COMMISSION REQUEST ITEMS – NONE

F-2. PLANNING COMMISSION COMMENTS

Commissioner Burnett – None.

Commissioner Livengood - Stated he will not be in attendance of the July 25th Planning Commission Meeting and confirmed that the Planning Commission Workshop will be at 9:00 a.m., August 2, 2006, at the Central Library.

Vice-Chairperson Scandura – None.

Chairperson Dingwall – None.

Commissioner Ray – None.

Commissioner Horgan – None.

Commissioner Dwyer – None.

ADJOURNMENT:

Adjourned at 12:05 a.m. to the next regularly scheduled meeting of Tuesday, July 25, 2006.

APPROVED BY:

Scott Hess, Secretary

Robert Dingwall, Chair